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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,318	12/06/2005	Guoshun Deng	B-5720PCT 622686-6	5692
36716 7590 11/24/2009 LADAS & PARRY 5670 WILSHIRE BOULEVARD, SUITE 2100 LOS ANGELES, CA 90036-5679			EXAMINER AJIBADE AKONAI, OLUMIDE	
			ART UNIT	PAPER NUMBER
			2617	
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			11/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/535,318

Applicant(s)

DENG ET AL.

Examiner

OLUMIDE T. AJIBADE AKONAI

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed August 13 2009 have been fully considered but they are not persuasive. Regarding claim 1, the applicants' representative asserts that the combination of Niiyama, Rita, and Nishimura fail to teach or suggest the embodiment of claim 1. Specifically, the applicants' representative asserts that Niiyama fails to teach or suggest that the acknowledgment signal is sent to the debugging tool. The examiner respectfully disagrees. Claim 1 claims said removable storage device performing a corresponding operation according to the commands and/or data. Niiyama discloses performing erasing data and rewriting data to the flash memory of the portable remote terminal in response to an erasure command and rewrite command (see col. 8, lines 17-55). In response to the data erasure and rewrite process at the portable remote terminal, an ACK is sent to the ROM writer to indicate the process was accomplished (see col. 8, lines 17-55). Niiyama therefore reads on the applicants' limitation of sending an operating system because the ACK is transmitted from the portable remote terminal to the ROM writer in response to the erasure command and rewrite command from the ROM writer to the portable electronic device. Regarding claim 11, the applicants' representative asserts that Niiyama fails to disclose said mobile storage device either rejecting the standard data or disposing of the standard data in accordance with the standard data write command format. The examiner respectfully disagrees and maintains that the erasure and rewriting of data in the flash memory of the portable remote device clearly reads on disposing of the standard data in accordance with the

standard data write command format because the data erasure and rewriting to the flash memory erases the data currently in the flash memory (see col. 8, lines 21-44). In response to applicants' representative argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "data not containing the SCSI identifier as user defined" and "the operation program in the terminal unit may limit sending of any command to the portable remote terminal") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In response to applicants' representative argument that the interface between the mobile storage device and the host device in an embodiment of the present technology is completely different from that of Nishimura, Nishimura discloses a cellular phone unit 10 connected to a PC 13 via a USB or RS232, the PC transmitting data to the cellular phone unit via the USB or RS232 (see figs. 4 and 7, col. 9, lines 64-65, and col. 10, lines 10-13, 34-61). Nishimura therefore teaches connecting a mobile terminal to a universal interface such as a USB or RS232 as disclosed in the applicants' specification (see page 6 of the applicants' specification, lines 1-3).

Claims 1-11 are therefore stand rejected as set forth below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by **Niiyama et al 5,400,389 (hereinafter Niiyama)**.

Regarding **claim 10**, Niiyama discloses a method for sending commands and/or data to a storage device (portable telephone 10 comprising flash memory 202, see fig. 1, col. 3, lines 60-62), said method comprising: setting an identification mark (code data indicating byte mode instruction or page mode instruction, see fig. 8, col. 7, lines 34-55), said identification mark and said commands and/or data forming a data packet (instruction command sent from ROM writer 5 to portable telephone comprising flash memory 202 includes code data to indicate byte or page mode instruction and instruction command or data, see col. 7, lines 34-55); utilizing said application to send to said storage device said data packet together with a write command (transmitting code data for writing to flash memory, see figs. 1, 3 and 7, col. 7, lines 53-66, col. 9, lines 22-25, col. 10, lines 21-34); receiving at said storage device said write command and said data packet (see col. 10, lines 21-52); interpreting and obtaining said commands in said data packet based on said identification mark (see col. 7, lines 34-43, col. 8, lines 45-52, see col. 1, lines 27-29); and sending an operation result, said operation result being

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sent by said storage device to said application (sending an acknowledgement, see col. 8, lines 55-60).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Niiyama et al 5,400,389 (hereinafter Niiyama)** in view of **Nishimura 6,934,537**.

Regarding **claim 11**, Niiyama discloses a method for a non-administrative user sending commands and/or data restricted to an administrative user along with standard data to a mobile storage device, comprising configuration of an application running in an operating system, said mobile storage device being connected with said operating system, and said application being used to send the commands and/or data and the standard data to the mobile storage device (portable telephone 10 comprising flash memory 202, see fig. 1, col. 3, lines 60-62), the method further comprising: 1) said application setting an identification mark (code data indicating byte mode instruction or page mode instruction, see fig. 8, col. 7, lines 34-55) for the commands and/or data, said identification mark and the commands and/or data forming a data packet, wherein said standard data is lacking said identification mark; (instruction command sent from ROM writer 5 to portable telephone comprising flash memory 202 includes code data to indicate byte or page mode instruction and instruction command or data, see col. 7, lines 34-55) 2) said application sending to the mobile storage device through the operating system the standard data and sending to the mobile storage device through the operating system the data packet together with a write command according to the standard write command format provided by the operating system (transmitting code data for writing to flash memory, see figs. 1, 3 and 7, col. 7, lines 53-66, col. 9, lines 22-25, col. 10, lines 21-34); 3) said mobile storage device receiving from the operating system the write command and the data packet and the standard data (see col. 10,

lines 21-52); 4) said mobile storage device interpreting and obtaining the commands and/or data in the data packet based on the identification mark (see col. 7, lines 34-43, col. 8, lines 45-52, see col. 1, lines 27-29); 5) said mobile storage device performing a corresponding operation according to the commands and/or data in accordance with a mode predefined by the mobile storage device (program in the rewritable memory, flash memory 202 of the portable telephone 10 is rewritten in order to change the function of the portable telephone, see col. 7, lines 34-43, col. 8, lines 45-52, see col. 1, lines 27-29), and sending to said application an operation result via the operating system; and 6) said mobile storage device either rejecting the standard data or disposing of the standard data in accordance with the standard data write command format (erasing and rewriting of data currently in the flash memory, see col. 8, lines 21-44).

Niiyama does not specifically disclose said removable storage device being connected with said operating system via a universal interface.

In the same field of endeavor, Nishimura discloses a PC (PC 13, see figs. 4 and 7, col. 9, lines 64-65) connected to a cellular phone unit with a storage device (cellular phone unit 10, see figs. 4 and 7, col. 9, lines 64-65), wherein the PC is connected to storage device of the cellular phone unit via a USB connection (see figs. 4 and 7, col. 9, lines 64-65, and col. 10, lines 10-13, 34-61).

It would therefore have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Nishimura, by connecting a PC to a storage device in a cellular phone using a USB interface, into the system of

Niiyama for the benefit of rewriting a program that is in the memory device of a portable device.

6. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Niiyama et al 5,400,389 (hereinafter Niiyama)** in view of **Ritter 6,859,650** and **Nishimura 6,934,537**.

Regarding **claim 1**, Niiyama discloses a method for sending commands and/or data to a storage device (portable telephone 10 comprising flash memory 202, see fig. 1, col. 3, lines 60-62), comprising configuration of an application running in an operating system (ROM write unit 5, see fig. 3, col. 5, lines 41-45), said application being used to send the commands and/or data to the storage device, wherein the operating system limits sending said commands to the storage device, said commands include a device control operation command corresponding to an operation that the operating system limits the storage device from performing (ROM writer 5 rewriting the operation program stored in the flash memory of portable terminal 10 so that the portable telephone 10 is able change and perform a different function, indicating portable telephone 10 is limited in the its functions/operation, and the program that is rewritten to the flash memory 202 of the portable terminal changes the function/operation, see abstract, col. 5, lines 41-61), and the method further comprising the following steps: 1) said application setting an identification mark (code data indicating byte mode instruction or page mode instruction, see fig. 8, col. 7, lines 34-55) for the commands and/or data (code data for inputting data into memory, see fig. 8, col. 7, lines 53-66), said identification mark and the commands and/or data forming a data packet (instruction command sent from ROM

writer 5 to portable telephone comprising flash memory 202 includes code data to indicate byte or page mode instruction and instruction command or data, see col. 7, lines 34-55); 2) said application sending to the storage device through the operating system the data packet together with a write command according to the standard write command format provided by the operating system (transmitting code data for writing to flash memory, see figs. 1, 3 and 7, col. 7, lines 53-66, col. 9, lines 22-25, col. 10, lines 21-34); 3) said storage device receiving from the operating system the write command and the data packet (see col. 10, lines 21-52); 4) said storage device interpreting and obtaining the commands and/or data in the data packet based on the identification mark (see col. 7, lines 34-43, col. 8, lines 45-52, see col. 1, lines 27-29) and 5) said storage device performing the corresponding operation according to the commands and/or data (program in the rewritable memory, flash memory 202 of the portable telephone 10 is rewritten in order to change the function of the portable telephone, see col. 7, lines 34-43, col. 8, lines 45-52, see col. 1, lines 27-29), and sending to said application the operation result via the operating system (sending an acknowledgement, see col. 8, lines 55-60).

Niiyama does not specifically disclose that the storage device is a removable storage device.

In the same field of endeavor, Ritter discloses a portable device (see fig. 1, col. 3, lines 40-46) comprising a removable flash memory SIM card (SIM card 2 comprising microcontroller 20, in which data can be read and written into, see abstract, fig. 1, col. 3, lines 49-62, and col. 4, lines 20-38).

It would therefore have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Ritter, by having the flash memory of Niiyama as a removable flash memory card, into the portable telephone of Niiyama for the benefit of transferring the SIM card from one or the portable apparatus to another.

Niiyama as modified by Ritter does not specifically disclose said removable storage device being connected with said operating system via a universal interface.

In the same field of endeavor, Nishimura discloses a PC (PC 13, see figs. 4 and 7, col. 9, lines 64-65) connected to a cellular phone unit with a storage device (cellular phone unit 10, see figs. 4 and 7, col. 9, lines 64-65), wherein the PC is connected to storage device of the cellular phone unit via a USB connection (see figs. 4 and 7, col. 9, lines 64-65, and col. 10, lines 10-13, 34-61).

It would therefore have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Nishimura, by connecting a PC to a storage device in a cellular phone using a USB interface, into the system of Niiyama as modified by Ritter, for the benefit of rewriting a program that is in the memory device of a portable device.

Regarding **claim 2**, as applied to claim 1, Niiyama further discloses wherein the standard write command format is the standard write file function command format provided by the operating system (rewriting program to flash memory of the portable telephone, see col. 10, lines 31-52).

Regarding **claim 3**, as applied to claim 1, Niiyama further discloses wherein the command and/or data in the data packet comprises, but is not limited to, a device control operation command of the mobile storage device (program in the rewritable memory of the portable telephone 10 is rewritten in order to change the function of the portable telephone, see col. 7, lines 34-43, col. 8, lines 45-52, see col. 1, lines 27-29).

Regarding **claim 4** as applied to claim 1, Niiyama further discloses wherein the application can also send the commands and/or data under a non-administrator mode of said operating system (rewriting program to flash memory of the portable telephone, see col. 10, lines 31-52).

Regarding **claim 5** as applied to claim 1, Niiyama further discloses wherein the mobile storage device comprises, but not limit to USB flash disk, mobile hard disk, semiconductor mobile storage device, MO disk, ZIP disk, and mobile phone (see fig. 1, lines 26-27).

Regarding **claim 6** as applied to claim 1, Niiyama further discloses wherein the commands and/or data can be either user-defined command and/or data, or the standard operation commands and/or data (see col. 10, lines 31-52).

Regarding **claim 7** as applied to claim 6, Niiyama further discloses wherein the commands and/or data in the data packet comprises at least one of, but is not limited to: the password verification command, password modification command, storage capacity obtaining command, device internal information obtaining command, write protect setting command, write protect determining command, switching state determining command,

device internal information modification command, data position obtaining command, storage disk switching command, formatting command and storage capacity altering command (program in the rewritable memory of the portable telephone 10 is rewritten in order to change the function of the portable telephone, see col. 7, lines 34-43, col. 8, lines 45-52, see col. 1, lines 27-29).

7. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Niiyama et al 5,400,389 (hereinafter Niiyama)** in view of **Ritter 6,859,650** and **Nishimura 6,934,537** as applied to claim 6 above, and further in view of **Terho et al 5,884,103 (hereinafter Terho)**.

Regarding **claim 8**, as applied to claim 6, Niiyama as modified by Ritter and Nishimura discloses the claimed limitation except wherein the operating system refers to Windows operating system of Microsoft Inc., comprising, but not limits to, Windows 98, Windows Me, Windows 2000 Professional, Windows 2000 Server, Windows 2000 Advance Server, Windows XP Professional, Windows XP Home Edition Windows XP Server, Windows XP Advance Server, and subsequent operating systems developed by Microsoft Inc.

In a similar field of endeavor, Terho discloses an application (see figs. 6 and 8, col. 4, lines 48-56) comprising an operating system (see col. 8, lines 62-67, col. 9, lines 1-2) except wherein the operating system refers to Windows operating system of Microsoft Inc., comprising, but not limits to, Windows 98, Windows Me, Windows 2000 Professional, Windows 2000 Server, Windows 2000 Advance Server, Windows XP Professional, Windows XP Home Edition Windows XP Server, Windows XP

Advance Server, and subsequent operating systems developed by Microsoft Inc (see col. 8, lines 62-67, col. 9, lines 1-2).

It would therefore have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Terho, by having a PC/device transmitting messages to control a mobile device have a windows operating system, into the system of Niiyama as modified by Ritter and Nishimura for the benefit of enabling proper transfer of data between a PC or controlling device and a mobile device by using a flexible and standard operating system.

Regarding **claim 9**, as applied to claim 1, Niiyama as modified by Ritter and Nishimura discloses the claimed limitation except wherein the application can send the commands and/or data under the non-administrator mode of Windows operating system of Microsoft Inc. Terho, however further discloses wherein the application can send the commands and/or data under the non-administrator mode of Windows operating system of Microsoft Inc (see col. 8, lines 62-67, col. 9, lines 1-2).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUMIDE T. AJIBADE AKONAI whose telephone number is (571)272-6496. The examiner can normally be reached on M-F, 8.30p-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617